

STATEMENT for Senator Cleland
Hearing on S. 2255
Wednesday, April 12, 2000

Mr. Chairman, thank you for holding this hearing today on the important issue of Internet sales tax policy.

As a former state official, I believe that the sovereignty of states must be a closely held and protected authority. However, Congress has pre-empted the states authority to develop its own tax policy with regard to Internet sales since 1998. State and local officials in Georgia and elsewhere went along with this plan with the understanding that after three years there would be some direction on this issue from the Advisory Commission on Electronic Commerce (ACEC). However, the Commission did not reach the statutorily required two-thirds majority necessary to make a recommendation, and instead of working together to reach a valid recommendation, they submitted to Congress a simple "findings." Thus, unfortunately, the ACEC failed in its assigned mission of consensus-making.

Some in Congress contend that the state and local sales tax system is too cumbersome, and, therefore, Internet sales should be exempt from sales taxes. This may be the case, and I encourage state officials to evaluate their tax policies. However, in today's society, where the "new economy" leaders survive by filling voids, there are companies that have developed software that enables an on-line seller to assess the appropriate local sales tax. For example, Taxware, in Salem, Massachusetts, licenses their software to on-line retailers who also have nexus in states, requiring the collection of local sales taxes.

On the other hand, some traditional bricks and mortar stores have established separate, independent on-line businesses that do not collect sales taxes because as separate businesses they do not technically have nexus in as many states as the "bricks and mortar" stores by the same name. How would the Supreme Court have interpreted this business arrangement if it was hearing the Quill case today? And, I would question if this was the intent of Congress when it passed the Internet Tax Freedom Act.

Additionally, is Congress in the business of rewarding stores that only choose to offer products on-line? Or, punishing stores whose owners only choose to offer goods to consumers who visit their store? Barring outside intervention, I believe that the most efficient form of commerce will prevail. Congress should not favor one form of commerce over another, whether in tax or other forms of public policy, but rather must allow the businesses to compete equally for customers.

Finally, some of our colleagues in Congress would like to make this into an anti-tax versus pro-tax issue. **This is not the issue.** Sales taxes are not new taxes and are not imposed by the federal government. This tax policy is developed at the most local level to support local services--education, emergency services, local healthcare, and infrastructure development. In Georgia, tax policy decisions are even more localized than elected officials. Proposed sales taxes must be put to the voters in a referendum for their choice. Are my colleagues asking me to support denying my constituents the right to vote for a sales tax to improve their local school?

I look forward to the testimony today and hopefully to having some of the questions I have raised in my statement addressed.